

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF MICHIGAN

CERES FARMS, LLC,

Plaintiff,

v.

No.

NATIONAL RAILROAD PASSENGER
CORPORATION d/b/a AMTRAK,

Defendant.

NOTICE OF REMOVAL

Pursuant to 28 U.S.C. §§ 1331, 1349, 1441 and 1446, Defendant National Railroad Passenger Corporation d/b/a Amtrak (“Amtrak”) hereby removes the lawsuit filed by Plaintiff Ceres Farms, LLC (“Ceres Farms”) styled *Ceres Farms, LLC v. National Railroad Passenger Corporation d/b/a Amtrak*, Case No. 19-642-CH-S (the “Action”), from the Circuit of Cass County, Michigan, 43rd Judicial Circuit, to the United States District Court for the Western District of Michigan. In support of its Notice of Removal, Amtrak states:

1. The United States of America owns more than fifty percent (50%) of Amtrak. *See* 49 U.S.C. § 24101 *et seq.*

2. Consequently, Amtrak may remove the Action to the United States District Court for the Western District of Michigan because this Court has original jurisdiction over this matter pursuant to 28 U.S.C. §§ 1331 and 1349. *Hanson v. Nat’l R.R. Pass. Corp.*, No. 4:06-CV-118, 2007 WL 3348010, at *1 (W.D. Mich. Nov. 8, 2007) (“[T]he Court finds there to be removal jurisdiction premised on the controlling statutes and the stock ownership of Amtrak by the Secretary of Transportation.”). *See also Seaborn v. Amtrak*, No. 13-2033, 2013 WL 3557397, at *2 (E.D. Pa. July 15, 2013) (same); *Holley v. Amtrak Northeast Corridor*, 937 F. Supp. 1110, 1113–14 (D.N.J. 1996) (same).

3. Amtrak's removal of this Action is timely under 28 U.S.C. § 1446(b) because no more than thirty (30) days have passed since Ceres Farms served Amtrak with a copy of its Summons and Complaint on December 20, 2019. (A copy of Ceres Farm's Summons and Complaint is attached hereto as Exhibit 1). (A copy of the Service of Process Transmittal dated December 20, 2019 is attached hereto as Exhibit 2).

4. Amtrak filed a copy of its Notice of Removal on the Clerk of the Circuit Court of Cass County, Michigan, 43rd Judicial Circuit, and served notice on all counsel of record.

WHEREFORE, Defendant National Railroad Passenger Corporation d/b/a Amtrak hereby removes the lawsuit filed by Plaintiff Ceres Farms, LLC styled *Ceres Farms, LLC v. National Railroad Passenger Corporation d/b/a Amtrak*, Case No. 19-642-CH-S, from the Circuit of Cass County, Michigan, 43rd Judicial Circuit, to the United States District Court for the Western District of Michigan.

Respectfully submitted,

DEFENDANT NATIONAL RAILROAD
PASSENGER CORPORATION d/b/a
AMTRAK

By: /s/ Jeshua T. Lauka
One of Its Attorneys

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CERTIFICATE OF SERVICE

The undersigned attorney certifies that a copy of the foregoing Notice of Removal was served on:

Thomas R. TerMatt
Foster, Swift, Collins & Smith, PC
1700 East Beltline NE
Suite 200
Grand Rapids, Michigan 49525

and

The Honorable Carol Montavon Bealor
Circuit Court Administrator
43rd Judicial Circuit, Cass County, Michigan
Law and Courts Building
60296 M-62
Cassopolis, Michigan 49031

via first-class U.S. Mail, postage pre-paid, this 16th day of January, 2020.

DAVID, WIERENGA & LAUKA, P.C.
Attorneys for Defendant National Railroad
Passenger Corporation d/b/a Amtrak

By: /s/ Jeshua T. Lauka
Jeshua T. Lauka (P71958)
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VERIFICATION

JESHUA T. LAUKA, first being duly sworn, states that he is an attorney for Defendant NATIONAL RAILROAD PASSENGER CORPORATION d/b/a AMTRAK, and that the foregoing Notice of Removal is true in substance and in fact to the best of his knowledge, information and belief.

DAVID, WIERENGA & LAUKA, P.C.
Attorneys for Defendant National Railroad
Passenger Corporation d/b/a Amtrak

Dated: January 16, 2020

By: /s/ Jeshua T. Lauka
Jeshua T. Lauka (P71958)
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Subscribed and sworn to before me this
16th day of January, 2020.

/s/ Sedina Sljivo
Notary Public
Ken, Acting in Kent County, Michigan
My commission expires: 09-22-25